

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERNEST JETER,

**DECLARATION IN SUPPORT
OF PLAINTIFF'S CROSS -
MOTION FOR SUMMARY
JUDGMENT AND IN
OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION
OF THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF INVESTIGATION OF THE CITY
OF NEW YORK, and THE OFFICE OF SPECIAL
COMMISSIONER OF INVESTIGATION FOR NEW
YORK CITY SCHOOL DISTRICT OF THE CITY OF
NEW YORK, *et al.*,

06-CV-3687
(NGG)(LB)

Defendants.
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BRYAN D. GLASS, Esq., hereby declares pursuant to 28 U.S.C. Section 1746 and under penalty of perjury as follows:

1. I am a member of Glass Krakower LLP and attorney for Plaintiff Ernest Jeter in the above-captioned action. I am familiar with the matters set forth below based on my representation of Mr. Jeter in this case and during his Section 3020-a trial, in addition to the review of the case file in this matter.

2. This declaration is submitted in support of Plaintiff's cross-motion for summary judgment for a finding of liability in this action, and in opposition to Defendants' motion for summary judgment seeking to dismiss the Complaint.

3. Annexed hereto as Exhibit 1 is a true copy of Judge Trager's Decision on Defendants' Motion to Dismiss, dated March 4, 2008.

4. Annexed hereto as Exhibit 2 is a true copy of correspondence from the Mayor's Office, SCI, OSI, and the Medical Bureau between June 2003 and December 2004.

5. Annexed hereto as Exhibit 3 is a true copy of excerpts of Section 3020-a trial testimony, dated March 31, 2006, of 811k guidance counselor Steven Lent.

6. Annexed hereto as Exhibit 4 is a true copy of a 3/10/04 counseling memorandum from Principal Rachael Henderson to Ernest Jeter and other correspondence from OEO investigators resolving the 2/13/04 incident as matter of workplace disharmony.

7. Annexed hereto as Exhibit 5 is a true copy of a 5/19/04 email from Ernest Jeter to Principal Rachael Henderson.

8. Annexed hereto as Exhibit 6 is a true copy of a 9/23/04 letter from Assistant Principal Rosina DeMarco to Ernest Jeter.

9. Annexed hereto as Exhibit 7 is a true copy of excerpts of deposition testimony of parent Sylvia Serra.

10. Annexed hereto as Exhibit 8 is a true copy of an OEO closing memorandum of Plaintiff's complaint against Francine Dreyfus dated 4/21/05 and other related correspondence regarding the "investigation" against Francine Dreyfus.

11. Annexed hereto as Exhibit 9 is a true copy of excerpts of Section 3020-a trial testimony of Assistant Principal Rosina Demarco.

12. Annexed hereto as Exhibit 10 is a true copy of an email from Francine Dreyfus to Rachel Henderson, dated 2/18/05, documenting Dreyfus's orchestration of scrutiny of Plaintiff's work through Rosina DeMarco.

13. Annexed hereto as Exhibit 11 is a true copy of an SCI report unsubstantiated against Assistant Principal Rosina DeMarco dated December 5, 2005.

14. Annexed hereto as Exhibit 12 is a true copy of emails from Ernest Jeter to SCI investigators dated April and May 2006.

15. Annexed hereto as Exhibit 13 is a true copy of an email from Ernest Jeter to payroll secretary Mary Flynn, dated 8/11/06, complaining about the unilateral deduction from his salary.

16. Annexed hereto as Exhibit 14 is a true copy of Plaintiff's complaint to the NYC Department of Investigation's Rose Hearn, dated 8/15/06.

17. Annexed hereto as Exhibit 15 is a true copy of an Education Law 3020-a packet of rules received by Ernest Jeter after service of disciplinary charges as well as the UFT-DOE collective bargaining agreement, Article 21, reflecting contractual amendments to the 3020-a process.

18. Annexed hereto as Exhibit 16 is a true copy of a letter from DOE HR Director Andrew Gordon to Ernest Jeter, dated 7/30/07.

19. Annexed hereto as Exhibit 17 is a true copy of the applicable provision of the UFT-DOE guidance counselor contract regarding the Chapter 683 program.

20. Annexed hereto as Exhibit 18 is a true copy of a letter from District 75 Superintendent Bonnie Brown to Ernest Jeter, dated June 8, 2007.

21. Annexed hereto as Exhibit 19 is a true copy of a letter from UFT representative Alphonse Mancuso to Ernest Jeter, dated July 2, 2007.

22. Annexed hereto as Exhibit 20 is a true copy of a Chapter 683 Summer Vacancy Circular No. 11, 2007-08 document.

23. Annexed hereto as Exhibit 21 is a true copy of an email from Ernest Jeter to Chancellor Joel Klein, dated 8/11/06.

24. Annexed hereto as Exhibit 22 is a true copy of Conrad Reitz's Step 2 grievance decision dated 10/19/07 signed off on by Bonnie Brown on 10/25/07.

25. Annexed hereto as Exhibit 23 is a true copy of Ernest Jeter's N and then converted Unsatisfactory APPR annual rating for the 2004-05 school year.

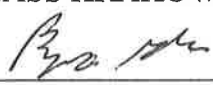
26. Annexed hereto as Exhibit 24 is a true copy of Progress Notes re Ernest Jeter's visits to Veterans Hospital due to workplace stress caused by DOE administrators dated 2/27/03 and 3/11/03.

27. Annexed hereto as Exhibit 25 are various newspaper articles regarding the circumstances surrounding District 75 Superintendent Susan Erber's resignation from the NYCDOE in January 2006, as well as an article describing past Medicaid fraud in City special education programs dated July 22, 2009.

Dated: New York, New York
November 30, 2011

GLASS KRAKOWER LLP

By:


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EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ERNEST JETER

Plaintiff,

MEMORANDUM AND ORDER

-against-

Civil Action No.
CV-06-3687 (DGT)

NEW YORK CITY DEPARTMENT OF
EDUCATION, et al.,

Defendant.

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Trager, J:

Plaintiff, Ernest Jeter,¹ has worked for the New York City Department of Education ("DOE") as a guidance counselor since 1994. On July 27, 2006, Jeter brought this complaint alleging that defendants - the DOE, the New York City Department of Investigation, and the Special Commissioner of Investigation for the New York City School District - have discriminated against him because he is black and retaliated against him for engaging in protected activity. Jeter claims he is entitled to relief under: (1) the Fourteenth Amendment to the United States Constitution, (2) Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., (3) the civil rights provisions of 42

¹ Jeter, who is not an attorney, is representing himself pro se. "It is well established that the submissions of a pro se litigant must be construed liberally and interpreted 'to raise the strongest arguments that they suggest.'" Triestman v. Fed. Bureau of Prisons, 470 F.3d 471, 474 (2d Cir. 2006) (collecting authority).

U.S.C. §§ 1981, 1983, 1985, and 1986, (4) and New York Human Rights Law, Executive Law § 296.

This action is only the most recent of several judicial and administrative actions Jeter has brought against his employer for discrimination. In 1999, Jeter sued the DOE in this court alleging employment discrimination, and the DOE prevailed on summary judgment. In 2004, and again in 2005, Jeter filed complaints with the New York State Division of Human Rights ("DHR") and the United States Equal Employment Opportunity Commission ("EEOC"). Each court and agency that has considered Jeter's complaints has found the DOE not liable for discrimination.

Defendants have moved, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Jeter's current complaint, arguing that his claims are either untimely, barred by res judicata, or otherwise meritless as a matter of law. For the reasons stated below, defendants' motion to dismiss is granted in part and denied in part.

Background

(1)

Jeter's First Action in this Court

Jeter filed his first complaint with this court on March 6, 1999. In it, he alleged that the DOE discriminated against him

because of his race and disability, and in retaliation for grievances. Summary judgment was granted in favor of defendant because certain of Jeter's claims were time-barred, and Jeter could not establish a prima facie case for those claims that were timely. Jeter v. New York City Dep't of Education, No. 99 Civ. 2537 (E.D.N.Y. Mar. 30, 2004). Jeter did not appeal.

(2)

Jeter's Claims with the DHR and the EEOC

In 2004 and 2005, Jeter filed two complaints with the DHR against the DOE alleging employment discrimination ("DHR I" and "DHR II").

Jeter filed DHR I on July 6, 2004, alleging that the DOE treated him differently from his white colleagues because he is black and had previously complained of discrimination at the DOE. Specifically, Jeter's DHR I complaint alleged the following:

1. I am a Black male who filed a previous complaint with EEOC in or about 1998.
2. In 1994, I was hired by [the DOE] as a Guidance Counselor. My time, attendance and work performance have been satisfactory during my employment.
3. For the past five years, I have been a counselor at P.S. 811K at 286K, located in Brooklyn, NY. My immediate supervisor during this time has been Rachel Henderson, female, who is Black. There is only one other counselor, Steve Lent, who is a White male.
4. In October 2003, my caseload was increased from 30

students to 82 students by Rachel Henderson. On information and belief, I was the only one who had an increase in my caseload.

5. In March 2004, my caseload was increased again. I was informed by Margo Levy, female, White, who is the Supervisor of Social Workers that the increase was mandated by the Superintendent.
6. In May of 2004, I was written up for insubordination. I was accused of not performing the duties of my job. I contacted the union and the matter is still pending. On June 30, 2004, I received my evaluation which rated me satisfactory, but rated my attendance unsatisfactory.
7. I believe I am being treated differently because I am a Black male who previously filed a complaint with the EEOC. Other non-Black counselors are not treated in this manner.

Defs.' Decl. Supp. Mot. Dismiss at Ex. F ("Jeter's DHR I complaint").

Jeter filed DHR II on August 11, 2005, alleging that the DOE had retaliated against him for his DHR I complaint.

Specifically, Jeter's DHR II complaint alleged the following:

1. I filed prior complaint with the New York State Division of Human Rights. Because of this, I have been subject to unlawful discriminatory actions.
2. Since April, 2005, I have been assigned to the District Office at 400 First Avenue, New York, NY 10010.
3. In September, 2004, I have been treated disparately from other related service providers. Every Monday during the 2004-5 school year, my records have been checked and I receive warning letters and counselings in regard to the records by Francine Dryfus, Local Instructional Superintendent, whereas no other related service provider undergoes such scrutiny. To my

knowledge, no formal complaint has ever been made to the local Instructional Supervisor by my Principal Rachel Henderson.

4. I have been falsely accused of excessive absenteeism by Francine Dryfus and Susan Erber, Superintendent of District 75 and brought up on unwarranted disciplinary charges.

Id. at Ex. I ("Jeter's DHR II complaint").

On October 6, 2005, and March 16, 2006, respectively, the DHR resolved each of Jeter's actions in favor of the DOE, finding that neither complaint was supported by probable cause. In each case, the DHR found that the DOE advanced a non-discriminatory, business-related, and non-pretextual reason for treating Jeter as it did.

After denying each claim, the DHR advised Jeter of his right to appeal its decision to the New York State Supreme Court and to file his Title VII claims with the EEOC. Jeter did not appeal either decision within the state court system but did pursue his Title VII claims with the EEOC. On January 11, 2006, and May 4, 2006, respectively, the EEOC adopted the findings of each DHR decision without independent review ("EEOC I" and "EEOC II"), and issued him right-to-sue letters, informing him that he could pursue his claims in federal court within ninety days.

(3)

Jeter's Current Action

Jeter brought his current action in this court on July 27, 2006, more than ninety days after EEOC I, but within ninety days of EEOC II. His complaint ("Jeter II") alleges that the DOE has waged a continuous campaign of discrimination and retaliation against him starting in April 2003.² In particular, Jeter accuses the DOE of the following unlawful employment practices that were either motivated by racial animus or in retaliation for Jeter's prior protected activity: (1) the DOE transferred and reassigned Jeter several times; (2) the DOE assigned certain job responsibilities to Jeter that were below his level of competence and experience, purportedly in order to coerce Jeter into quitting, or to prevent him from adequately completing his assigned tasks, hence giving the DOE grounds to discipline him; (3) Jeter was verbally abused and threatened; (4) Jeter was given negative evaluations and threatened with disciplinary actions; (5) the DOE brought disciplinary charges against Jeter several times; (6) the DOE closely scrutinized Jeter's performance, and his attendance record in particular, in order to bring spurious disciplinary charges against Jeter; and (7) the DOE either

² As explained below, the statute of limitations for Sections 1981 and 1983 bars any claims arising prior to July 27, 2003, and Title VII's statute of limitations bars any claims arising prior to October 15, 2004.

committed or suborned perjury in the course of Jeter's various disciplinary proceedings.

Discussion

(1)

The Standard Governing Motions to Dismiss

Federal Rule of Civil Procedure 12(b)(6) provides that a complaint that "fails to state a claim upon which relief can be granted" should be dismissed. Fed. R. Civ. P. 12(b)(6). To resolve a 12(b)(6) motion, all factual allegations set forth in the complaint must be accepted as true and all reasonable inferences must be drawn in favor of the plaintiff. See Kassner v. 2nd Ave. Delicatessen Inc., 496 F.3d 229, 237 (2d Cir. 2007). "The need to draw all inferences in the plaintiff's favor has heightened application when the plaintiff is proceeding pro se," as Jeter is in this case. McInerney v. Rensselaer Polytechnic Inst., 505 F.3d 135, 138 (2d Cir. 2007). Moreover, "[a] court may take judicial notice of the records of state administrative procedures, as these are public records, without converting a motion to dismiss to one for summary judgment." Evans v. New York Botanical Garden, No. 02 Civ. 3591, 2002 U.S. Dist. LEXIS 16434, *11-12 (S.D.N.Y. Sept. 9, 2002).

In its motion to dismiss, the DOE argues that: (1) the election of remedies doctrine bars Jeter's New York Human Rights

Law claims because Jeter previously brought them before the DHR, (2) Jeter's Sections 1985 and 1986 claims fail as a matter of law because of intracorporate immunity, (3) res judicata bars Jeter's current claims because he previously litigated them all before either this court or the DHR, (4) Jeter's Title VII claims are untimely, and (5) Jeter fails to make out a prima facie case in support of his Section 1983 claims.

(2)

Jeter's Claims Under New York Human Rights Law

The election of remedies doctrine precludes any claims under the New York Human Rights law that Jeter has previously brought in either of his two DHR actions. New York's Executive Law provides that,

Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of appropriate jurisdiction . . . unless such person had filed a complaint hereunder or with any local commission on human rights . . . provided that, where the division has dismissed such complaint on the grounds of administrative convenience, on the grounds of untimeliness, or on the grounds that the election of remedies is annulled, such person shall maintain all rights to bring suit as if no complaint had been filed with the division.

N.Y. Exec. Law § 297(9). "Thus, absent application of one of the three exceptions, the statute divests courts of jurisdiction over human rights claims which have been presented to the DHR."

Hamilton v. Niagara Frontier Transp. Auth., No. 00 Civ. 300, 2007 U.S. Dist. LEXIS 55522, *28-29 (W.D.N.Y. July 31, 2007) (citing York v. Association of the Bar of the City of N.Y., 286 F.3d 122, 127 (2d Cir. 2002); Moodie v. Federal Reserve Bank of N.Y., 58 F.3d 879, 882 (2d Cir. 1995) ("[A] state law depriving its courts of jurisdiction over a state law claim also operates to divest a federal court of jurisdiction to decide the claim.")). Accordingly, to the extent that Jeter's New York Human Rights Law claims in his complaint make the same allegations he made in his DHR proceedings, they are dismissed.

(3)

Jeter's Claims Under Sections 1985 and 1986

In addition to alleging general employment discrimination and retaliation, which are dealt with below, Jeter also alleges that the defendants conspired to discriminate and retaliate against him, in violation of Sections 1985 and 1986. Section 1985 makes it illegal to conspire to violate somebody's civil rights, and its third subsection provides,

[I]f two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory

the equal protection of the laws . . . the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

42 U.S.C. § 1985(3). In addition, Section 1986 imposes liability on persons for failing to prevent the kinds of conspiracies contemplated by Section 1985. 42 U.S.C. § 1986.

Defendants argue that the intracorporate immunity doctrine bars the application of Sections 1985 and 1986 in this case. Generally, the intracorporate immunity doctrine has been held to preclude liability when the alleged conspirators work for the same organization, Fabbricante v. City of New York, No. 01 Civ. 5575, 2002 U.S. Dist. LEXIS 27815, *24-25 (E.D.N.Y. Nov. 12, 2002) (quoting Travis v. Gary Community Mental Health Ctr., Inc., 921 F.2d 108, 110 (7th Cir. 1990)), and "has been extended to apply to individual members of a single governmental entity," id. (citing Yeadon v. New York City Transit Auth., 719 F. Supp. 204, 207, 212 (S.D.N.Y. 1989)). There is an exception, however, to the intracorporate immunity doctrine that allows a Section 1985 action to proceed against members of the same organization if the conspirators were "'motivated by an independant personal stake in achieving the corporation's objective.'" Id. at *25 (quoting Girard v. 94th St. and Fifth Ave. Corp., 530 F.2d 66, 72 (2d Cir. 1976)). But "[t]he personal stake must . . . be separate and apart from the bias itself, or else the exception would swallow the rule." Id. at *25-26. Jeter has not alleged that any of the

alleged conspirators were motivated by anything other than the same bias and desire to retaliate that permeate his complaint.

Thus, because each entity alleged to have violated Jeter's civil rights is employed by or a part of the City of New York, and because Jeter has not alleged any additional motivation unrelated to his general allegations, the intracorporate immunity doctrine bars Jeter's Section 1985 claims, and they are dismissed. See, id. at *25-26 (applying the intracorporate immunity doctrine to bar a Section 1985 action against the City of New York, New York City Fire Department employees, and various other employees of different city agencies). Moreover, since Jeter's Section 1986 claims depend entirely on the viability of his Section 1985 claims, his Section 1986 claims are also dismissed. See, e.g., id. at *27 ("Having failed to state a claim under Section 1985, plaintiff also fails to state a Section 1986 claim.").

(4)

Jeter's Claims Under Sections 1981 and 1983

a. The Preclusive Effect of Jeter's Prior Judicial and Administrative Actions

The DOE has argued that Jeter's complaint should be dismissed because each of his claims is precluded by prior judicial or administrative decisions on similar issues.

Under the doctrine of res judicata, or claim preclusion, [a] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. Thus, the doctrine bars later litigation if [an] earlier decision was (1) a final judgment on the merits, (2) by a court of competent jurisdiction, (3) in a case involving the same parties or their privies, and (4) involving the same cause of action.

EDP Med. Computer Sys. v. United States, 480 F.3d 621, 624 (2d Cir. 2007) (internal citations and quotations ommitted). The relevant prior dispositions are Jeter's first action in this court, commenced in 1999 and decided by summary judgment in 2004, and his two actions before the DHR, commenced and decided in 2004 through 2006. The extent to which these prior proceedings preclude his current claims depends on the nature of the claims, the similarity of the issues, and Jeter's prior opportunity to litigate his claims.

i. Jeter's Prior Federal Court Action

Jeter filed his first complaint, Jeter I, against the DOE in 1999. And in March 2004, summary judgment was granted in favor of the DOE. The DOE argues that because many of the events giving rise to Jeter's current complaint occurred while Jeter I was pending, Jeter should have brought all of his current allegations in Jeter I. According to the DOE, the March 2004 grant of summary judgment decided that nothing the DOE did prior to March 2004 constituted unlawful discrimination. Jeter, however, correctly points out that when a plaintiff has filed

multiple, similar actions, "[r]es judicata does not apply to new rights acquired during the action, which might have been, but which were not, litigated." Humbles v. Reuters America, Inc., No. 05 Civ. 4895, 2006 U.S. Dist. LEXIS 65753, *27-28 (E.D.N.Y. Aug. 31, 2006) (citing SEC v. First Jersey Sec., Inc., 101 F.3d 1450, 1464 (2d Cir. 1996); Prime Mgmt. Co., Inc. v. Steinegger, 904 F.2d 811, 816 (2d Cir. 1990)). Accordingly, while Jeter may not relitigate issues that were decided by this court's March 2004 grant of summary judgment, Jeter is not foreclosed from bringing timely claims arising from events which occurred after he filed Jeter I, and which the 2004 summary judgment order did not consider.

ii. Jeter's Prior DHR Actions

Jeter did not seek review of either DHR decision in state court, thus, those administrative decisions cannot preclude Jeter's Title VII claims. See Kosakow v. New Rochelle Radiology Assocs., P.C., 274 F.3d 706, 728 (2d Cir. 2001) (citing University of Tennessee v. Elliott, 478 U.S. 788, 795-99 (1986)). With regard to his remaining claims under Sections 1981 and 1983, however, unreviewed dispositions of the DHR are "entitled to same issue and claim preclusive effect in federal court that [they] would receive in [New York state] courts." Id.

Therefore, New York law controls whether Jeter's prior DHR proceedings preclude his non-Title VII claims. Id. at 730 n.7.

Under New York law, a prior claim will preclude a subsequent claim when the issues are the same and the party to be estopped had a "full and fair opportunity to contest the decision now said to be controlling." Id. at 730 (citing Schwartz v. Public Adm'r, 24 N.Y.2d 65, 71, 246 N.E.2d 725, 728-29, 298 N.Y.S.2d 955, 960 (1969)). "The burden of proving identity of the issue rests on the proponent of collateral estoppel, while the opponent bears the burden of proving that he . . . did not have a full and fair opportunity to litigate the issue." Id. (citing Schwartz, 298 N.Y.S.2d at 962). Even assuming that the DOE has met its burden of establishing the requisite similarity of the issues - a point which Jeter contests - because the prior DHR proceedings did not afford Jeter a full and fair opportunity to litigate his claims, res judicata does not preclude him from bringing them again in this court. When evaluating whether an unreviewed DHR proceeding afforded a plaintiff a full and fair opportunity to litigate his claims a court should consider, "'the size of the claim, the forum of the prior litigation, the use of initiative, the extent of the litigation, the competence and experience of counsel, the availability of new evidence, indications of a compromised verdict, differences in the applicable law and foreseeability of future litigation.'" Id.

In Kosakow v. New Rochelle Radiology Associates, 274 F.3d 706 (2d Cir. 2001), applying these factors to analogous facts,

the Second Circuit found that a DHR proceeding did not present a full and fair opportunity to litigate, and therefore, could not preclude a subsequent federal court action advancing the same claims. Id. at 734-36 (reversing a district court's application of collateral estoppel). Like the plaintiff in Kosakow, Jeter was able to submit a short complaint with documentation supporting his claims, which the DHR then investigated. But as in Kosakow,

[t]here is no record of any discovery being conducted, nor is there any record of any interviews of witnesses. Moreover, there is no record of any type of hearing or conference being held between the parties. It appears that the no-probable-cause determination was based primarily, if not exclusively, upon a review of the papers submitted.

Id. at 734. Moreover, Kosakow relied heavily on the fact that the plaintiff represented herself before the DHR. Id. at 736 ("Kosakow was acting pro se. For this reason, she could not have been expected or able to frame her evidence within the context of the specific legal issues. Nor would she necessarily have known what facts were most relevant or persuasive in proving her case."); see also id. at 736 n.12. Following Kosakow, district courts have concluded that DHR actions precluded plaintiffs from subsequently bringing the same claims in federal court only when the plaintiff was represented by counsel during the DHR proceedings. See, e.g., Janneh v. Regal Entertainment Group, No. 07 Civ. 79, 2007 U.S. Dist. LEXIS 57297, *9-12 (N.D.N.Y. Aug. 4,

2007) (distinguishing Kosakow and noting, "[t]he courts have held that a full and fair opportunity to litigate issues in a DHR proceeding exists, even without a hearing, provided the claimant was represented by counsel in the administrative proceeding" (emphasis added)). Therefore, because Jeter is pro se, and because his opportunity to litigate before the DHR lacked discovery, witness interviews, and a hearing, Jeter's DHR proceedings do not preclude his current action.³

b. The Sufficiency of Jeter's Claims Under § 1983

The DOE also argues that Jeter's complaint fails to establish a prima facie case for his Section 1983 claims. Section 1983 provides,

³ Defendant has failed to cite Kosakow, instead choosing to rely on DeCinto v. Westchester County Med. Ctr., 821 F.2d 111 (2d Cir. 1987), and Kirkland v. City of Peekskill, 828 F.2d 104, 107-09 (2d Cir. 1987). DeCinto and Kirkland predate Kosakow by more than ten years, and Kosakow clearly distinguished both. Kosakow, 274 F.3d at 730. In DeCinto, the plaintiff was given a full administrative hearing prior to his challenged discharge, and he conceded that he had "fleshed out" the relevant issues in the DHR proceeding. Id. In Kirkland, the plaintiff had sought review of the DHR decision in New York state court. Id. Thus, Kosakow answered the question left unanswered by DeCintio and Kirkland - a question highly relevant to Jeter's case - i.e., "whether a determination of no probable cause by the DHR, absent a formal hearing and absent any subsequent review in state court, serves to preclude subsequent federal court litigation of an issue already decided by the DHR." Id. Moreover, Kosakow reasoned that whether a plaintiff is represented by counsel before the DHR bears heavily on whether that plaintiff was afforded a full and fair opportunity to litigate her claims. Kosakow was pro se, as is Jeter. Thus, Kosakow is much more relevant to Jeter's case than are DeCintio or Kirkland, yet defendant relies solely on DeCintio and Kirkland without mentioning or attempting to distinguish Kosakow.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law[.]

42 U.S.C. § 1983. To establish a prima facie case of discrimination under Section 1983, a plaintiff must allege that: "(1) he is a member of a protected class, (2) he was performing satisfactorily, (3) he was subjected to an adverse employment action, and (4) the adverse employment action occurred under circumstances giving rise to an inference of discrimination." McCray v. New York City Police Dep't., No. 99 Civ. 7035, 2008 U.S. Dist. LEXIS 5368, *7-9 (E.D.N.Y. Jan. 24, 2008) (internal citations and quotations omitted) (noting that when a plaintiff's Section 1983 claim is based on his equal protection rights, courts use the same analytical framework as for Title VII claims). A plaintiff must also "allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law." Id. Moreover, to establish a prima facie case for actionable retaliation, a plaintiff must allege that he suffered an adverse employment action because he engaged in protected activity. See McAllan v. Von Essen, 571 F. Supp. 2d 672, 679-80 (S.D.N.Y. 2007).

Accepting all of Jeter's factual allegations as true, and,

because he is pro se, construing his complaint liberally to raise the strongest arguments it suggests, Jeter's complaint establishes a prima facie case for employment discrimination and retaliation. It is undisputed that Jeter belongs to a protected class. And in his complaint Jeter alleges, inter alia, that the DOE (1) treated him disparately by assigning him responsibilities, such as taking the garbage out, that were below his level of competence and experience, and (2) threatened to and did charge him with disciplinary violations. According to Jeter, the DOE was motivated by racial animus and a desire to retaliate against him for previous complaints he had filed, and these events occurred within the limitations period. If proven true, these acts by the DOE may constitute adverse employment actions. See, e.g., Washington v. County of Rockland, 373 F.3d 310, 320 (2d Cir. 2004) (holding that a district court erred by concluding that the maintenance of disciplinary charges against plaintiff did not constitute an adverse employment action as a matter of law); Zelnik v. Fashion Inst. of Tech., 464 F.3d 217, 226 (2d Cir. 2006) (noting that the following acts might constitute adverse employment actions: "negative evaluation letters, express accusations of lying, assignment of lunchroom duty, reduction of class preparation period, . . . transfer from library to classroom teaching as an alleged demotion, and assignment to classroom on fifth floor which aggravated teacher's physical

disabilities.") Therefore, it cannot be said that Jeter's allegations fail to establish a prima facie case for employment discrimination and retaliation.

c. The Statute of Limitations

Based upon New York law, actions under Sections 1981 and 1983 carry a three-year statute of limitations. Ormiston v. Nelson, 117 F.3d 69, 71 (2d Cir. 1997). Thus, since Jeter filed his current complaint on July 27, 2006, he may only allege 1981 and 1983 violations based on events that occurred on or after July 27, 2003.

(5)

The Timeliness and Justiciability of Jeter's Title VII Claims

A plaintiff must bring a Title VII law suit within ninety days of receiving a right-to-sue letter from the EEOC. 42 U.S.C § 2000e-5(f)(1); see also Espinosa v. Delgado Travel Agency, Inc., No. 05 Civ. 6917, 2006 U.S. Dist. LEXIS 71085, *15-16 (S.D.N.Y. Sept. 27, 2006) (dismissing Title VII complaint because it was not filed within ninety days of the right-to-sue letter). Because Jeter filed two charges with the EEOC, he received two right-to-sue letters. His complaint in this court was untimely as to the first right-to-sue letter, and timely as to the second.

The DOE argues that all of Jeter's Title VII claims should be dismissed because when the EEOC issues multiple right-to-sue

suit after filing an administrative charge of hostile work environment or retaliation would essentially give an employer carte blanche to mistreat an employee thereafter.").

The EEOC issued its first right-to-sue letter, which addressed the charges Jeter brought in DHR I, on January 11, 2006. The EEOC issued its second right-to-sue letter, which addressed the charges Jeter brought in DHR II, on May 4, 2006. Jeter filed his current complaint on July 27, 2006, more than ninety days from EEOC I but less than ninety days from EEOC II. Thus, Jeter's Title VII claims which mirror his DHR I claims are untimely and dismissed. Jeter's Title VII claims that were included or are "reasonably related to" the allegations from DHR II, are timely and are not dismissed. See Humbles v. Reuters Am., Inc., No. 05 Civ. 4895, 2006 U.S. Dist. LEXIS 65753 (E.D.N.Y. Aug. 31, 2006) (citing Holtz v. Rockefeller & Co., Inc., 258 F.3d 62, 83 (2d Cir. 2001)).

In addition, the statute of limitations for filing a Title VII charge with the EEOC is 300 days. 42 U.S.C. § 2000e-5(e)(1) (noting the 300 day limitations period when the plaintiff has originally brought his claims to a state administrative agency); see also Mudholkar v. Univ. of Rochester, 2008 U.S. App. LEXIS 1405, *5-7 (2d Cir. 2008). Thus, since Jeter filed his second complaint with the DHR and EEOC on August 11, 2005, he may only allege Title VII violations based on events that occurred on or

after October 15, 2004.

(6)

Conclusion

The DOE's motion to dismiss is granted in part and denied in part. Jeter's claims under the New York Human Rights Law that he previously brought before the DHR are barred by the election of remedies doctrine and dismissed. Jeter's claims under Sections 1985 and 1986 are barred by intracorporate immunity and dismissed. Jeter's claims under Sections 1981 and 1983 are not barred by res judicata, and since Jeter has established a prima facie case, they are not dismissed. Jeter's claims under Title VII which were addressed by the EEOC's first right-to-sue letter are untimely and are dismissed, but his Title VII claims addressed by the EEOC's second right-to-sue letter are timely and are not dismissed.

In sum, Jeter's claims under Sections 1981 and 1983 that arose on or after July 27, 2003, remain viable. As do his Title VII claims that he originally brought in his DHR II complaint, provided they arose on or after October 15, 2004. The remainder of Jeter's claims are dismissed.

Dated: Brooklyn, New York
March 4, 2008

SO ORDERED:

 /s/
David G. Trager
United States District Judge

EXHIBIT 2



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

REFERRAL TO:

June 2, 2003

Mr. Richard J. Condon
Special Commissioner of Investigation
For the New York City School District
20th Floor
80 Maiden Lane
New York, New York 10038

ACTION REQUESTED:

The attached correspondence is being forwarded to your agency for response. The only information the Office of the Mayor has about this constituent is included in the attached letter. Respond directly to the constituent under the appropriate signature within your agency. Please call Stacy Lewis with questions at (212) 788-2771.

DUE DATE: within 10 working days of receipt

CONSTITUENT:

Casework#: 217212
Mr. Ernest Jeter
Apartment 1-J
12-421 Flatlands Avenue
Brooklyn, NY 11208

ACTION TAKEN:

Please check action taken and provide a detailed explanation (please write any other pertinent information on the back of this sheet).

Constituent received a written response (attach copy)

Constituent was responded to via phone. Phone number: Spoke to:

The matter is outside of our jurisdiction. I suggest referral to:

Return this form to:
Lyn Howell
Mayor's Office of Correspondence
23rd Floor South
One Centre Street
New York, NY 10007
(212) 788-2474

The Special Commissioner of Investigation

For the New York City School District

COMPLAINT FORM

Date: 6/6/03 Received by: 17

Maker: 20031602

Response Date to the Complainant:

School: 811K

District: 75

Division: DSE

Referral Date:

Referral Date:

Complainant wishes to remain confidential?

(Y/N) N

If yes, does complainant agree to the release of complaint data to the appropriate office if complaint is referred? (Y/N) Y

Allegation:

Carbon copied correspondence addressed to Mayor Bloomberg from Ernest Jeter, Guidance Counselor assigned to P811K, relates that he is being unfairly harassed about his time by Dr. Susan Erber, Citywide Programs Superintendent and Ms. Bonnie Brown, Director of Operations for CSD # 75 (see attached). Mr. Jeter claims that said parties are well aware of his medical condition, via medical documentation which he has provided, which necessitates medical treatment at the Veteran's Hospital on Tuesdays and Thursdays (due to two line of duty injuries which he sustained at the hands of students). Mr. Jeter writes that although he is absent on these two days, his workload has never suffered as a result.

CASE TRACKING Positive, see case #'s 02-3065R (OSI), 01-0516R (OSI), 99-2449R (OSI), 96-1843R (OSI) and 92-1409R (OSI) under Brown; see case #'s 03-1543R (OSI), 03-03-0660R (OSI) and numerous others under Erber.

List of Subject Names

LAST NAME: BROWN

SSN:

FIRST NAME: BONNIE

BOE: LE

MIDDLE: AD

AD

DISTRICT: 75

POSITION: DIRECTOR OF OPERATIO

DIVISION: DSE

ADDRESS:

ATTORNEY:

LAST NAME	ERBER	SSN	
FIRST NAME	SUSAN	BOEFILE	
SCHOOL		TITLE	SU
DISTRICT	75	POSITION	SUPERINTENDENT
DIVISION	DSE		
ADDRESS			
PHONE			

List of Complainants:

LAST NAME	JETER	SSN	
FIRST NAME	ERNEST	BOEFILE	709726
SCHOOL	811K	TITLE	GO
DISTRICT	75	POSITION	GUIDANCE COUNSELOR
DIVISION	DSE		
ADDRESS	124-21 FLATLANDS AVENUE, # 1J, B'KLYN, 11208		
PHONE			

List of Victims:

List of Witnesses:

List of Others:

**THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT**

80 Maiden Lane, 20th floor, New York, New York 10038
Telephone (212) 510-1400
Fax (212) 510-1550

Richard J. Condon
Special Commissioner

June 9, 2003

Ms. Theresa Europe
Director
Office Of Special Investigations
65 Court Street, Room 922
Brooklyn, New York 11201

**RE: Intake # 20031602
BROWN, BONNIE
ERBER, SUSAN**

Dear Ms. Europe:

Attached please find information received by this office in reference to the above. We are forwarding this matter to you for your review and appropriate action.

Sincerely,

Thomas Fennell
THOMAS FENNELL

Chief Investigator

RECEIVED
BOARD OF EDUCATION
SPECIAL INVESTIGATIONS
2003 JUN 10 AM 11:39



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, Chancellor

OFFICE OF THE CHANCELLOR

ROOM 201 52 Chambers Street - New York, NY 10007

THERESA EUROPE
DIRECTOR

THOMAS W. HYLAND
DEPUTY DIRECTOR

MEMORANDUM

DATE: June 16, 2003

TO: Ms. Yvonne Joseph, Administrator
Medical Bureau

FROM: Mr. Thomas W. Hyland *TWH* -
Deputy Director

SUBJECT: Ms. Bonnie Brown, Director of Operations for
Community School District 75
Ms. Susan Erber, Superintendent
Community School District 75
OSI# 03-4805

The Office of Special Investigations (OSI) is in receipt of the attached referral from the Special Commissioner of Investigation.

This is being referred to you for review/investigation or any action you deem appropriate. Please submit documentation to this office of any action taken by you within thirty (30) days of the receipt of this memorandum.

TWH:dm

Attachment

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

80 Maiden Lane, 20th floor, New York, New York 10038
Telephone: (212) 510-1400
Fax: (212) 510-1550

Richard J. Condon
Special Commissioner

December 15, 2004

Mr. Thomas Hyland
Deputy Director
Office of Special Investigations
49 Chambers Street, 6th Floor
New York, New York 10007

Handwritten: Jpd
12-29-04
BN

Dear Mr. Hyland:

Please provide this office with copies of any investigative reports or information detailing whatever actions may have been taken by your office regarding the following, which was referred to your office on 06/09/03.

SCI INTAKE NO.

2003-1602

Handwritten: 052*
03-4825

SUBJECT

BROWN, BONNIE
ERBER, SUSAN

Handwritten: SS#
110-38-1427

Please send this material to the attention of Investigator Michael Bisogna (212)
510-1411. Thank You.

Sincerely,

Handwritten signature of Thomas Rennell
Thomas Rennell
Chief Investigator

A 2

BISOGNA, MICHAEL

From: CIORCIARI, DAVID
Sent: Wednesday, December 15, 2004 6:03 PM
To: BISOGNA, MICHAEL
Cc: CONTINANZI, ANTHONY
Subject: Request for OSI Case Info

Please be advised that a request for OSI case information has been sent to OSI re SCI Case #20042263 (Inv. Bisogna).

SCI INTAKE No.:

2003-1602 (Bonnie Brown & Susan Erber)

1

12/16/2004



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, Chancellor

**DIVISION OF HUMAN RESOURCES
MEDICAL, LEAVES & BENEFITS OFFICE
65 Court Street - Brooklyn, NY 11201**

TO: Thomas Hyland
Deputy Director

FROM: Yvonne M. Joseph *Yvonne M Joseph*
Administrator

SUBJECT: ERNEST JETER - OSI # 03-4805

DATE: December 28, 2004

Ernest Jeter was granted line of duty status by the Medical Bureau from 2/9/99 - 3/18/99. His case was later brought to an independent medical arbitrator and the arbitrator extended his line of duty to 6/30/99. The arbitrator deemed that any absence after 6/30/99 would be considered as personal illness. These findings are equally binding on Mr. Jeter and the Department of Education.

On 2/27/03, the Medical Bureau received a request to examine Mr. Jeter pursuant to the NYS Education Law for Section 2568 due to Mr. Jeter being absent from work every Tuesday and Thursday since Jan 2002, stating that he was attending medical sessions due to his line of duty claim. He was examined at the Medical Bureau on 3/27/03. Prior to the examination he was notified that he could bring a person of his choice to this appointment. He was also advised to contact his union.

Mr. Jeter arrived unaccompanied and signed a statement agreeing to waive his right to representation. As a result of his examination he was found fit to work. Medical documentation, including detailed reports and copies of office records for the time period in question, was requested from three different sources. Mr. Jeter did bring some documentation to the examination but it was not the aforementioned requested records. As the requested information was not received by 4/22/03, Mr. Jeter was sent a second request. The requested medical documentation was received on 5/12/04.

Review of the submitted documentation regarding his claim of attending medical sessions every Tuesday and Thursday from January 2002 onward, revealed that he attended sessions from 1/22/02 to 2/2/02. He did not return for medical sessions until 4/9/02, and then only attended until 4/30/02. He was next seen 4 months later on 8/29/02, and again from 9/10/02 to 9/26/02. This pattern of medical sessions followed by a hiatus of 2 - 4 months was repeated until 3/20/03. The records do not substantiate Ernest Jeter's claim that he attended medical sessions every Tuesday and Thursday from January 2002 until March 20, 2003.

I have tried to address all issues that involve the Medical Bureau. If you have any further questions, please feel free to contact me at 718 935-4004.

Thank you.

EXHIBIT 3

1
2 THE STATE EDUCATION DEPARTMENT
3 THE UNIVERSITY OF THE STATE OF NEW YORK
4

5 In the Matter of
6 NEW YORK CITY DEPARTMENT OF EDUCATION - DISTRICT 75
7
8
9
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21
22
23
24

v

ERNEST JETER

Section 3020-a Education Law Proceeding (File 5,285)

DATE: March 31, 2006

TIME: 10:28 a.m. to 1:00 p.m.
1:54 p.m. to 2:55 p.m.

LOCATION: New York City Department of Education
Office of Legal Services
49-51 Chambers Street, 6th Floor
New York, New York

BEFORE: CALVIN SHARPE, ESQ.
Hearing Officer
27 Undercliff Road
Montclair, New Jersey 07042

COPY

Page 98

1 Lent - Voir Dire - Glass
2 be off the record about ten minutes.
3 (Off the record)
4 MS. RODRIGUEZ-BETANCES:
5 Should I recall the witness, Mr. Sharpe?
6 THE HEARING OFFICER: Yes,
7 thank you. I was about to ask Mr. Glass to
8 start his cross. I guess we need a witness.
9 Mr. Lent, I'll remind you
10 that you're still under oath. Mr. Glass is
11 going to do a cross-examination of you.
12 CROSS EXAMINATION
13 BY MR. GLASS:
14 Q. Good morning.
15 A. Good morning.
16 Q. You said that you didn't want
17 to file this report, right?
18 A. No, I did not. Between Mr.
19 Jeter and myself, he can be a wonderful
20 guidance counselor. He did wonderful things
21 for certain students in the school. There was
22 no reason for me to even go in that direction.
23 I never even thought of it on my own.
24 Q. So was Rachel Henderson, the

Page 100

1 Lent - Cross - Glass
2 Objection.
3 THE HEARING OFFICER: Basis?
4 MS. RODRIGUEZ-BETANCES: I
5 believe the witness has already answered the
6 question.
7 THE HEARING OFFICER: Well,
8 he's entitled to explore the completion of the
9 answer with cross, so I'm going to overrule
10 that.
11 BY MR. GLASS: (Cont'g.)
12 Q. Would you say that Roslyn
13 Hoff was encouraging --?
14 A. There wasn't a name
15 mentioned.
16 Q. Did you have any
17 conversations with Roslyn Hoff before you filed
18 this police report, directly?
19 A. Yes, she came to do an
20 investigation.
21 Q. This is before you filed a
22 police report.
23 A. Absolutely. Like I said,
24 these are building blocks. A police report is

Page 99

1 Lent - Cross - Glass
2 principal, encouraging you?
3 A. Yes. I don't know of such
4 things. She asked me to do so and I followed
5 her directions.
6 Q. Did you --?
7 A. It was reluctantly, but I did
8 it.
9 Q. Did you ask her why she was
10 asking you to file this?
11 A. Yes. She said this is the
12 procedure that you should follow.
13 Q. Did you -- did she say that
14 she was pressured by higher-ups to file this
15 police report.
16 A. No, the word pressure was not
17 involved -- wasn't mentioned at all. She just
18 told me that it was appropriate protocol to do
19 so. Not being familiar with these types of
20 procedures, I would never, on my own, went in
21 this direction.
22 Q. Did she say Roslyn Hoff
23 wanted you to file a police report?
24 MS. RODRIGUEZ-BETANCES:

Page 101

1 Lent - Cross - Glass
2 the last thing I would have ever considered
3 doing. There was no reason to do something
4 like this without someone initiating --.
5 Q. So Roslyn Hoff came to speak
6 to you before you --?
7 A. Yes.
8 Q. What did she ask you?
9 A. What transpired between Mr.
10 Jeter and myself.
11 Q. Did she tell you that she had
12 spoken to Mr. Jeter before she came to you?
13 A. I don't remember the sequence
14 of events. She said she would speak to Mr.
15 Jeter, also. And I don't know if she spoke to
16 Mr. Jeter first or myself.
17 Q. Did you file the police
18 report after you wrote this letter on March
19 1st, 2004?
20 A. Yes, after the fact.
21 Q. So it was at least three
22 weeks after the incident that you filed the
23 police report?
24 A. It was after the fact. I

10 (Pages 98 to 101)

1 **Lent - Cross - Glass**
 2 can't give you the exact timeframe. You know,
 3 I don't remember, but I wrote the letter first
 4 after what transpired between Mr. Jeter and
 5 myself. What happened then was between two
 6 men. An argument pursued. I didn't think
 7 anything more of it, but I felt, because
 8 certain statements were made and I felt
 9 threatened, that I should put something in
 10 writing. But as far as going any further,
 11 there was no reason to. People have arguments
 12 every single day. There was no reason to
 13 pursue it any further.
 14 Q. Well my question was the
 15 incident happened -- it was in the letter -- it
 16 says February 13th, 2004. Is that correct?
 17 A. I don't remember the
 18 sequence -- whatever is dated on here.
 19 Q. All right. So the police
 20 report was filed after your --
 21 A. After -- yeah, after.
 22 Q. Okay. So it's a period of
 23 several weeks.
 24 THE REPORTER: Okay. Please

1 **Lent - Cross - Glass**
 2 be careful of -- while you're flipping through
 3 the papers, I'm having a little difficulty.
 4 THE HEARING OFFICER: Okay.
 5 We will.
 6 THE REPORTER: Thank you.
 7 A. Again, on my own, the
 8 intention that of doing a police report never
 9 occurred to me. There was no reason to put a
 10 police report in about an occurrence that we
 11 had words. No more than that.
 12 BY MR. GLASS: (Cont'g.)
 13 Q. Do you recall the date that
 14 you actually filed the police report?
 15 A. No.
 16 Q. But, you know it was in
 17 March?
 18 A. I don't remember the date.
 19 I'm sorry. I have all the documentation --
 20 this report to me was insignificant because it
 21 had no bearing on anything.
 22 Q. That's not my question. I'm
 23 just asking when you --
 24 A. As I said before, I don't

1 **Lent - Cross - Glass**
 2 remember.
 3 Q. But it was definitely after
 4 this letter that you wrote.
 5 A. As far as I -- yes,
 6 definitely after. I can swear that -- yes,
 7 definitely after the letter.
 8 Q. Who is Roslyn Hoff?
 9 A. At that point, she was
 10 Supervisor of Guidance of Citywide Programs.
 11 Q. Did she tell you that she
 12 spoke to Jeter -- Mr. Jeter confidentially
 13 before she came to you?
 14 A. Again, I don't remember the
 15 sequence of events -- if she spoke to me first
 16 or she spoke to Mr. Jeter first. I really
 17 don't remember, you know, what transpired
 18 first.
 19 Q. Before you filed the police
 20 report, did Ms. Hoff tell you that Mr. Jeter
 21 had told her confidentially that he was
 22 complaining that you were trying to provoke him
 23 into a physical altercation?
 24 A. What? God knows, why would

1 **Lent - Cross - Glass**
 2 I --?
 3 THE HEARING OFFICER: Mr. --
 4 Mr.
 5 THE WITNESS: I'm sorry. I'm
 6 sorry.
 7 THE HEARING OFFICER: Just
 8 answer the question.
 9 A. (Cont'g.) Absolutely not.
 10 BY MR. GLASS: (Cont'g.)
 11 Q. Do you recall what Ms. Hoff
 12 told you at all about --?
 13 A. Jeter's name was never
 14 mentioned, other than what's in the occurrence.
 15 Q. What did her
 16 investigation --?
 17 A. I --
 18 Q. What did her investigation --
 19 what did she do as part of her investigation,
 20 as far as you know.
 21 A. I told her what transpired
 22 between Mr. Jeter and myself, those things he
 23 said to me and how emotionally threatened I
 24 felt by him -- the way his demeanor -- the way

Lent - Cross - Glass

2 **he was acting. I think you're going to open a**
 3 **tangent now.**
 4 **THE HEARING OFFICER: Mr.**
 5 **Lent.**
 6 **THE WITNESS: I'm sorry.**
 7 **THE HEARING OFFICER: Mr.**
 8 **Lent, let me worry about that. Okay?**
 9 **THE WITNESS: Okay.**
 10 **THE HEARING OFFICER: Don't**
 11 **worry about anything except answering his**
 12 **questions.**
 13 **THE WITNESS: I am worried**
 14 **about it, to be honest with you.**
 15 **THE HEARING OFFICER: Don't**
 16 **because it just crowds up the proceeding.**
 17 **THE WITNESS: I'm sorry.**
 18 **THE HEARING OFFICER: It**
 19 **makes it more difficult. It makes it more**
 20 **difficult --**
 21 **THE WITNESS: I'm sorry.**
 22 **THE HEARING OFFICER: -- to**
 23 **present the case. Okay? So just focus on the**
 24 **question and answer the question.**

Page 108

Lent - Cross - Glass

2 **Q. Was it someone from the**
 3 **Sixty-first (sic) precinct, do you remember?**
 4 **A. Yes, I know it was from the**
 5 **Fifty-first precinct.**
 6 **Q. Was there more than one**
 7 **police officer there?**
 8 **A. One came to the office of**
 9 **286, sat down, cordially spoke together. He**
 10 **took down information. And I said can I have a**
 11 **copy. He said it's not necessary; it's only**
 12 **done as an occurrence. It's nothing more than**
 13 **an occurrence; nothing transpired between you**
 14 **and Mr. Jeter. That's basically it.**
 15 **Q. And at the conclusion of the**
 16 **conversation, what did the police officer say?**
 17 **What happened?**
 18 **A. Have a good day.**
 19 **Q. And you said you didn't want**
 20 **to pursue it.**
 21 **A. Absolutely. There's no**
 22 **reason to pursue it. The person in the union**
 23 **came to me, said there's grounds I can pursue**
 24 **it. I said for what reason, in thirty-three**

Lent - Cross - Glass

2 **BY MR. GLASS: (Cont'g.)**
 3 **Q. When you filed the police**
 4 **report, did you put anything in writing? Did**
 5 **you -- did you write out the statement?**
 6 **A. No. No, the police officer**
 7 **came to 286. He wrote everything down.**
 8 **Basically what I told him is what's in this**
 9 **letter. I didn't put pen to pen -- pen to**
 10 **paper at all.**
 11 **Q. Did you give the police**
 12 **officer this letter, D Two?**
 13 **A. I might have; I don't**
 14 **remember exactly --**
 15 **Q. Do you recall what he asked**
 16 **you?**
 17 **A. Basically what happened --**
 18 **what happened that day and what Mr. Jeter --**
 19 **what transpired with Mr. Jeter and myself. And**
 20 **that was basically it.**
 21 **Q. Do you know the name of the**
 22 **police officer?**
 23 **A. I don't remember. To me, it**
 24 **was insignificant.**

Page 109

Lent - Cross - Glass

2 **years plus, I never went to the union. Two**
 3 **people can talk -- two people can negotiate --**
 4 **two people can mediate.**
 5 **Q. When you spoke to the police**
 6 **officer, was the principal present -- Principal**
 7 **Henderson?**
 8 **A. Just myself.**
 9 **Q. No other administrator was**
 10 **present?**
 11 **A. Just myself.**
 12 **Q. One on one?**
 13 **A. One on one.**
 14 **Q. Okay. Do you know if they --**
 15 **the police officer spoke to any other**
 16 **witnesses?**
 17 **A. I have no idea.**
 18 **Q. Okay. Following -- and as**
 19 **far as you know, the police report has never**
 20 **gone anywhere. Mr. Jeter's never been**
 21 **criminally charged?**
 22 **A. I said that before.**
 23 **Q. Okay. Following that, you're**
 24 **aware that Mr. Jeter filed a complaint against**

12 (Pages 106 to 109)

EXHIBIT 4

THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, Chancellor

BROOKLYN CENTER FOR STUDENTS WITH MULTIPLE DISABILITIES, 811K
P216 (Main Building) 2525 Haring Street - Brooklyn, NY 11235 - Tel: (718) 760-6084 - Fax: (718) 648-7816



Assistant Principals:
Doris Capenny
Rosina DeMarco
Rana Lee

Rachel Henderson
Principal

COUNSELING MEMO

March 10, 2004

Ernest Jeter
Guidance Counselor
811K @ P. 286

Dear Mr. Jeter,

On Friday, March 5, 2004, Ms. Roslyn Huff from the Office of Positive Behavior Supports met with you and Mr. Lent, in an effort to mediate and seek a resolution to the dispute that occurred on February 13, 2004. On March 8, 2004, I met with you to remind you that it is the expectation of District 75 that you interact with colleagues in a courteous and professional manner.

At the meeting, we discussed the incident that occurred between you and Mr. Lent, in which both of you engaged in a verbal confrontation. This incident was overheard by other colleagues and disrupted the work environment. At the meeting, I discussed that effective immediately, you will be assigned to P. 286 every day.

I wish to remind you that you are to cease all interaction with Mr. Lent as we discussed at our meeting.

A COUNSELING MEMO IS NOT DISCIPLINARY IN ANY MANNER AND CANNOT BE USED IN ANY ACTION AGAINST AN EMPLOYEE EXCEPT TO PROVE NOTICE IN THE EMPLOYEE DENIES NOTICE.

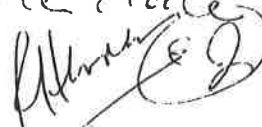
Sincerely,


Rachel Henderson
Principal

I have read and received a copy of this letter. I understand that a copy will be placed in my file.

Signature

Date

I will sign after the date


BROOKLYN INCLUSION: IS 281 - 5787 24th Ave. Tel: (718) 996-6706 Ext. 121; IS 14 - 2424 Batchelder St. Tel: (718) 743-0220 Ext. 4123
B.K. Murphy H.S. - 1600 Avenue L Tel: (718) 238-9283 Ext. 156; Sheepshead Bay H.S. - 3000 Avenue X Tel: (718) 392-3003 Ext. 180

DOE01759

4

District 75 School Based Services Coordinator
Phone(917) 256-4272
Fax (917) 256-4281

-----Original Message-----

From: Erber Susan (75K000)
Sent: Monday, March 08, 2004 12:21 PM
To: Dreyfus Francine (750000); Levy Margo (75M000)
Subject: Fw: ernest jeter v. steve lent - race harassment/workplace disharmony allegation

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----

From: Valente Michael <MValent@nycboe.net>
To: Henderson Rachel (75K811) <RHender@nycboe.net>
CC: Erber Susan (75K000) <SErber@nycboe.net>; Rosenbaum Lydia (75M000) <LRosenb@nycboe.net>; Mitchell Stephen A <SMitche@nycboe.net>
Sent: Mon Mar 08 11:35:16 2004
Subject: ernest jeter v. steve lent - race harassment/workplace disharmony allegation

Confidential

Dear Rachel,

OEO received a phone call today from Mr. Jeter in which he is claiming racial harassment by Mr. Lent. Apparently, there may have been a police complaint filed against Jeter by Lent recently. It is my understanding that you, over the years, have tried to intervene, in good faith, to resolve the workplace disharmony between the parties. When you get a chance, I would like to discuss this further with you. What is the story here? Also, it is my understanding that the Superintendent's Office sought to intervene here too, is that correct? I await further contact from you. Take care,

Michael J. Valente, Esq.
OEO Complaint Officer
NYC Department of Education
65 Court Street, Room 923
Brooklyn, New York 11201
(tel) 718-935-2135
(fax) 718-935-2531

Confidential/Privileged

CASE ACTIVITY SHEET

COMPLAINANT: JeterVS. Leat

O CASE #:

DATE

ACTIVITY

3/8/04

From Dreyfus 212-802-1520

Conference call

Conrad Reitz, Dist 75 Legal Advisor →
 apparently advised Bonnie Brown Dist 51st to
 investigate on conduct involving → perhaps disciplinary action
 regarding Feb 13 incident

(MV) → What is sought after results? CEO wants to know
 to cease → how that done is up to administrators →
 "cease & desist" or, it shows that Jeter
 made lewd sexual comments to Leat, take
 appropriate action

DOE01888

Valente Michael

From: Erber Susan (75K000)
Sent: Monday, March 08, 2004 5:05 PM
To: Valente Michael
Subject: Fw:

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----

From: Henderson Rachel (75K811) <RHender@nycboe.net>
To: Erber Susan (75K000) <SErber@nycboe.net>
CC: Dreyfus Francine (750000) <FDreyfu@nycboe.net>
Sent: Mon Mar 08 15:00:36 2004
Subject:

After meeting with Mr. Jeter and Mr. Lent we have discussed the issues and reached the following resolutions.

New schedules will eliminate any contact between Mr. Jeter nad Mr. Lent. Mr. Lent will be housed at SHBHS and cover the Inclusion sites for counseling and articulation. Mr. Jeter will be responsible for the Main building 286 effective 3/9. FYI this behavior is the reult of several changes that have occurred in the organization, which have placed the two counselors in the same location, giving Mr. Jeter all of Mr. Lent's assignments. However, tihe behavior between the two counselors is not new and Ms. Margo Joseph is aware of the constant mediation that has been occurred for the last five years.

Both have agreed to cease all conversation.

/



New York City Department of Education
OCCURRENCE REPORT

DOE CONTROL NO
75M000-100804-0001

NYPD CONTROL NO
none supplied

ATS CODE 75M000	SCHOOL AND/OR PROGRAM NAME/NUMBER 75M000 - District Office 811K Main Site		INCIDENT DATE & TIME 10/8/2004 12:15 PM	DURING SCHOOL HOURS? Yes
REPORT Original	BOROUGH	SUPERINTENDENCY 75	GEOGRAPHICAL DISTRICT 75	IS THIS REPORT FOR INFORMATION

Occurrence Reported by: Fran Dreyfus, LIS D75 (Phone: 212-802-1520)

Occurrence Data Entered at: 10/8/2004 at 12:26 PM

Location of the Occurrence: Office - Floor 2

Category: N99

Contacts: NYPD was not contacted.

Superintendent was contacted at 12:15 PM on 10/8/2004

Description of the occurrence

On Thursday, 9/23/04, at approx. 3 PM, Sylvia Serra, parent of Giovanni and Matthew Estrada, students at P811K, called LIS FRan Dreyfus to complain that neither child had received their IEP mandated related service of Counselling for 2003-04 school year. The assigned Counselor for both boys was Ernest Jeter, Guidance Counselor. Upon comparing Mr. Jeter's Related Service Attendance Card for Giovanni with the ATS record of Giovanni's attendance, it appears that Mr. Jeter has claimed that he provided service to the student on 4 days (1/30/04, 3/4/04, 5/20/04, 5/21/04) when the student was absent, and on 1 day (2/22/04) which was a Sunday. Dr. Dreyfus reported information to OSC1 (log # 04-2263) on 10/8/04.

Persons Involved

Suspects

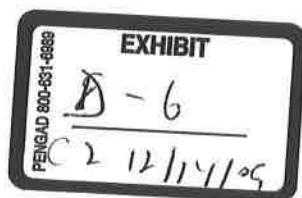
Jeter, Ernest

Victims

ESTRADA, GIOVANNI

Address: 108 MESEROLE STREET 7, BROOKLYN, NY 11206 Phone: 718-302-4869

Parents have not been notified.



From: Valente Michael
Sent: Monday, March 08, 2004 1:51 PM
To: Dreyfus Francine (750000)
Cc: Erber Susan (75K000); Levy Margo (75M000); Henderson Rachel (75K811); Mitchell Stephen A; Hoff Roslyn E (75M000)
Subject: RE: ernest jeter v. steve lent - race harassment/workplace disharmony allegation

Confidential

i just spoke with rachel and advised her to address the workplace disharmony between the parties --OEO wants the conduct to cease and desist immediately before there is an escalation of the conflict i.e., lent has filed police complaint regarding alleged threatening behavior; jeter is claiming racial harassment. also, the parties are to be instructed to avoid each other unless business necessity absolutely compels further contact. rachel will send me documentation/email that she read the "riot act" to the parties. also, please send me the two witness statements for our records. thank you all for your prompt and professional assistance.

Michael J. Valente, Esq.
OEO Complaint Officer
NYC Department of Education
65 Court Street, Room 923
Brooklyn, New York 11201
(tel) 718-935-2135
(fax) 718-935-2531

-----Original Message-----

From: Dreyfus Francine (750000)
Sent: Monday, March 08, 2004 1:36 PM
To: Valente Michael
Subject: RE: ernest jeter v. steve lent - race harassment/workplace disharmony allegation

Michael, I asked Rachel to FAX Steve Lent's letter and TWO witnesses' statements....she has all necessary documents...if you need anything else...just let me know
Fran

-----Original Message-----

From: Valente Michael
Sent: Monday, March 08, 2004 12:51 PM
To: Dreyfus Francine (750000); Erber Susan (75K000)
Cc: Henderson Rachel (75K811)
Subject: RE: ernest jeter v. steve lent - race harassment/workplace disharmony allegation

Confidential

Valente Michael

From: Valente Michael
Sent: Tuesday, March 23, 2004 12:56 PM
To: Dreyfus Francine (750000)
Subject: RE: OEO letter to Ernest Jeter

Confidential

Fran, it is in accordance with our policy of responding to persons who filed A-830 complaints of discrimination with our office. We give them notification of whether we take jurisdiction over the case or not, and if we take the case, we advise complainants of the outcome/resolution. Here, my investigation showed, based on information provided by the principal and others, that there was proper resolution of the workplace disharmony between the parties (principal separated the parties). Hence, we closed this discrimination complaint file.

Ok, have a good day!

Michael J. Valente, Esq.

*OEO Complaint Officer
NYC Department of Education
65 Court Street, Room 923
Brooklyn, New York 11201
(tel) 718-935-2135
(fax) 718-935-2531*

-----Original Message-----

From: Dreyfus Francine (750000)
Sent: Tuesday, March 23, 2004 12:24 PM
To: Valente Michael
Subject: RE: OEO letter to Ernest Jeter

Thank you....I guess I would like to know what prompted the letter?
Fran

-----Original Message-----

From: Valente Michael
Sent: Tuesday, March 23, 2004 9:48 AM
To: Henderson Rachel (75K811)
Cc: Erber Susan (75K000); Dreyfus Francine (750000); Reitz Conrad
Subject: OEO letter to Ernest Jeter

for your records. have a good day.

<< File: Jeter, Ernst Resolved ltr.doc >>

Michael J. Valente, Esq.



THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOËL I. KLEIN, *Chancellor*

Office of Equal Opportunity
Stephen A. Mitchell, *Director*

March 19, 2004

Mr. Ernest Jeter
124-21 Flatland Ave.
Brooklyn, NY 11208

OEO N°03-04-03-09-02clr,eth,r,otd

Dear Mr. Jeter:

The Office of Equal Opportunity (OEO) has been informed that Principal Henderson, pursuant to advice from OEO, made good faith efforts to address your complaint by facilitating prompt and proper resolution of the workplace disharmony between the parties. Specifically, OEO is informed that the Principal instructed the parties to act professionally and she has sought to minimize future contact between the parties by changing work schedules. Based on the foregoing, OEO considers this matter resolved and has closed your case file.

If you have any questions, you may contact Michael J. Valente, Esq., OEO Complaint Officer, at (718) 935-3319.

Sincerely,

Stephen A. Mitchell

Stephen A. Mitchell
Director

SAM:mjv

c: Rachel Henderson, Principal

EXHIBIT 5

To: Rachael Henderson, Principal
811k @ 286K

From: Ernest Jeter
Related Service Provider
811K @ 286K

Date: May 19, 2004

Re: The current space provided for counseling is unsuitable for the protection of the confidentiality of the subject matter discussed by each student-

The current space provided for counseling is totally unsuitable for counseling. The space is not secured enough to protect each student from others over hearing what each student is saying because the cubicle assigned to me is open from the ceiling, and the space is shared by an attendance teacher. Also, when the speech teachers over hear what the students are discussing, they make comments either during the sessions or after the sessions are over. In other words, this make me feel very uncomfortable knowing that these students are being subjected to their confidential sessions being violated.

In order to compensate for this breach of confidentiality, I have had to conduct sessions in the hallways while walking with the students, in the stair wells, in the gym or in the cafeteria.

As you are aware, counseling deals with very sensitive subject matter that the common lay person would not understand. On some occasions, common lay person will discussed and misinterpret the purpose of allowing a client to discuss certain information during counseling.

I have tried to handle this handicap as best as I can, but this is totally unfair to the students who are mandated for counseling and it is totally unfair to me because it is interfering with me performing my duties to the best of my abilities.

As you are also aware, you are required to provide appropriate space so that I can perform my duties and to protect the confidentiality of each student who is mandated for counseling.

DOE01854



At this time, I am demanding that you provided adequate space so that I can perform my duties in the appropriate setting and to protect the confidential nature of the subject matter that each student discusses with me.

Ernest Jeter
Related Service Provider
811K @ 286K

C: Fred Fields
UFT Chapter Leader

DOE01855

EXHIBIT 6

THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, Chancellor

BROOKLYN CENTER FOR STUDENTS WITH MULTIPLE DISABILITIES, 811K
P286 (Main Building) 2525 Haring Street - Brooklyn, NY 11235 - Tel: (718) 769-6984 - Fax: (718) 648-7816



Assistant Principals:
Doris CaPenny
Rosina DeMarco
Rosa Lien

Rachel Henderson
Principal

September 23, 2004

Dear Mr. Jeter,

As per Dr. Fran Dreyfus, Local Instructional Superintendent and Dr. Margo Levy, Supervisor of Counseling, please follow the guidelines listed below:

1. Follow the assigned schedule.
2. Keep attendance of students/ counseling sessions provided using the appropriate related service scan sheet (see attached)
3. Sign students out/in from classroom locations (see attached)

A copy of the memo regarding sign out/ sign in is attached as well as instructions for completing related service attendance.

Thank you,

Rosina DeMarco

Rosina DeMarco
Assistant Principal. 811K

Cc: Rachel Henderson, Principal P.811K
Dr. Francine Dreyfus, LIS
Dr. Margo Levy, Supervisor of Counseling

EXHIBIT 7

ORIGINAL

2 CIVIL COURT OF THE STATE OF NEW YORK
3 EASTERN DISTRICT OF NEW YORK

4 ----- x

5 JETER,

6 Plaintiff, Index No.

1:06-CV-03687

7 DGT-LB

8 -against-

9 NEW YORK CITY DEPARTMENT OF EDUCATION
10 OF THE CITY OF NEW YORK,

Defendant.

11 ----- x

12
13 EXAMINATION BEFORE TRIAL of SYLVIA SERRA, a
14 Nonparty Witness, taken by the Plaintiff, pursuant
15 to Order, held at the offices of Michael A. Cardozo,
16 Esq., Corporation Counsel, 100 Church Street, New
17 York, New York, on December 16, 2009, at 11:20 a.m.,
18 before a Notary Public of the State of New York.

19

20

21

22 *****

23 BARRISTER REPORTING SERVICE, INC.

120 Broadway

24 New York, N.Y. 10271

212-732-8066

25

1 Sylvia Serra

2 A Correct.

3 Q The second conversation, did he know
4 who your sons were?

5 A Like I said, again, I don't recall. I
6 might have had a second conversation with
7 him, I might have not had the second
8 conversation -- I just don't recall if I did
9 or I didn't.

10 Q Do you remember having a conversation
11 with him about having Matthew walk around
12 because he was very disruptive in class?

13 A No.

14 Q You don't recall any conversations
15 about that?

16 A No, that's what he told me he was
17 going to do.

18 Q He did tell you he was going to
19 provide services for your child?

20 A He said that he wanted to take my sons
21 -- walk them around the school, but that's
22 not how you provide services for my son.
23 That's not part of your job. You're supposed
24 to take my son out the classroom, take him to
25 a room, work with him with his issues --

1 Sylvia Serra

2 that's why you a counselor. Unless you're
3 not a licensed counselor. Then --

4 Q Do you know if he did that?

5 A That's what I was trying to get from
6 him, but he was very rude to him.

7 Q I know, but do you know on your own
8 whether he did that. Did you ask Lisette
9 that?

10 A I tried to ask Lisette that. She said
11 that she didn't want to get involved because
12 she wasn't going to lose her job.

13 Q Did you ask Ms. DeMarco that?

14 A I don't know if I asked her. I might
15 have, I might have not. I don't remember.

16 Q Did you ask Steven Lent that?

17 A Like I said, I don't recall his name.

18 Q You were at the school one time that
19 entire year; right? I think you said you
20 were there once or twice the whole year?

21 A Right, but I call on the phone and
22 speak to people, and that's why I got a
23 service coordinator that goes to the school
24 and check on my sons for me.

25 Q Who was the service coordinator at

1 Sylvia Serra

2 that time?

3 A I'm not going to give you her name
4 without her permission.

5 Q Does she know whether Mr. Jeter was
6 providing services?

7 A I don't even know if she knows Mr.
8 Jeter that well.

9 Q She didn't tell you that he was or was
10 not providing services?

11 A He was saying that.

12 Q Are you aware that he saw your
13 children 60 times that year?

14 A Excuse me.

15 Q Were you aware that he saw your
16 children each of your children 60 times that
17 year?

18 A I don't know nothing about that.

19 Q Did you bother to ask for the records
20 to determine that?

21 A What records?

22 Q The records of his service visits with
23 your children, did the board ever provide you
24 any records showing Mr. Jeter --

25 A No.

1 Sylvia Serra

2 Q You were not aware of those records;
3 right?

4 A I was aware that he was not providing
5 services. Whether he could have been or not,
6 that's not the question. The questions is he
7 could have lied on those records, too.

8 Q Just to be clear for the record, you
9 are aware he was not providing service
10 because he told you that; is that your
11 testimony?

12 A Right.

13 Q Apart from that, is there any other
14 basis of your knowledge that he was not
15 providing services?

16 MR. CHIU: Other than what she
17 already testified to?

18 A I don't recall.

19 Q Other than what Mr. Jeter told you on
20 that one occasion, do you have any basis of
21 first-hand knowledge that Mr. Jeter was not
22 providing services to your children?

23 A That's what I was trying to get from
24 the principal, and she was not providing me
25 that information. That's why I requested the

1 Sylvia Serra

2 hearing, to find out what was going on -- why
3 wasn't he providing services.

4 Q No one's ever showed you the results
5 of that hearing, did they? Have you ever
6 seen this -- this is Erber 6. It's a 100-page
7 decision about the hearing.

8 A What you want me to do about that?

9 Q Did anyone ever show it to you?

10 A No.

11 Q Did you ever ask to see it?

12 A No.

13 Q Did anyone from the board ever offer
14 to show it to you?

15 A No.

16 Q Did Mr. Chiu ever offer to show it to
17 you?

18 A No.

19 Q Did he ever offer to show you your
20 deposition at Mr. Jeter's trial?

21 A Excuse me. My deposition?

22 Q You testified under oath; right?

23 A Right.

24 Q You testified to the truth then;
25 right?

EXHIBIT 8

The Special Commissioner of Investigation

For the New York City School District

COMPLAINT FORM

Date: 5/9/2005 Received by: 17

Intake: 20051247

Response Date to the Complainant:

School: 811K

District: 75

Referred From:

Division: DSE

Number: 332973

Region: 75

Complainant wishes to remain confidential? (Y/N) N

If yes, does complainant agree to the release of complaint data to the appropriate office if complaint is referred? (Y/N) Y

Allegation:

In an e-mail addressed to Mayor Bloomberg and forwarded to the SCI by the Mayor's Office, complainant Ernest Jeter, P811K Guidance Counselor, relates allegations of misconduct against Local Instructional Superintendent Fran Dreyfuss (see attached).

Mr. Jeter claims that he is being racially discriminated against by LIS Dreyfuss and that she is deliberately abusing her supervisory powers. Mr. Jeter indicates that since September of 2004, Dreyfuss has been reviewing his counseling records without just cause and that she lodged a complaint against him with the SCI (see SCI case # 04-2263I). As a result, Mr. Jeter alleges that he was unjustly re-assigned to the District Office on April 12, 2005 by Dreyfuss and has not been provided with a reason for said re-assignment.

CASE TRACKING Positive, see case # 04-0511 R/ OSI under Dreyfuss and case #'s 04-2263I and 03-1602R/ OSI under complainant.

List of Subject Names

LAST NAME: DREYFUS

SSN:

FIRST NAME: FRAN *Cine*

BOEFILE: *4770842*

SCHOOL:

TITLE: SU

DISTRICT: 75

POSITION: LOCAL INSTRUCTIONAL S

DIVISION: DSE

ADDRESS:

PHONE1:

List of Complainants:

DOE01910

LAST NAME:	JETER
FIRST NAME:	ERNEST
SCHOOL:	811K
DISTRICT:	75
DIVISION:	DSE
ADDRESS:	12-421 FLATLANDS AVENUE, B'KLYN, 11208
PHONE1:	

SSN:	[REDACTED]
BOEFILE:	709726
TITLE:	GC
POSITION:	GUIDANCE COUNSELO

LAST NAME:	BLOOMBERG
FIRST NAME:	MICHAEL
SCHOOL:	
DISTRICT:	
DIVISION:	
ADDRESS:	OFFICE OF THE MAYOR
PHONE1:	

SSN:	
BOEFILE:	
TITLE:	NB
POSITION:	MAYOR

List of Victims:

List of Witnesses:

List of Others:

DOE01911

The Special Commissioner of Investigation

For the New York City School District

CASE FORM

Date: 5/9/2005 | CASETRACK: DOE | Received by: 17 | Intake: 20051247 |

Response Date to the Complainant: | School: 811K |

District: 75 |

Referred From: MAYOR OFFICE | Division: DSE |

Number: 332973 | Region: 75 |

Complainant wishes to remain confidential? (Y/N) N

If yes, does complainant agree to the release of complainant data to the appropriate office if complaint is referred? (Y/N) Y

Allegation:

In an e-mail addressed to Mayor Bloomberg and forwarded to the SCI by the Mayor's Office, complainant Ernest Jeter, P811K Guidance Counselor, relates allegations of misconduct against Local Instructional Superintendent Fran Dreyfuss (see attached).

Mr. Jeter claims that he is being racially discriminated against by LIS Dreyfuss and that she is deliberately abusing her supervisory powers. Mr. Jeter indicates that since September of 2004, Dreyfuss has been reviewing his counseling records without just cause and that she lodged a complaint against him with the SCI (see SCI case # 04-2263I). As a result, Mr. Jeter alleges that he was unjustly re-assigned to the District Office on April 12, 2005 by Dreyfuss and has not been provided with a reason for said re-assignment.

CASE TRACKING Positive, see case # 04-0511 R/ OSI under Dreyfuss and case #'s 04-2263I and 03-1602R/ OSI under complainant.

List of Names:

R/OSI @ 5/9/05

Last	First	Role	Title	Position	School	Dist	Div
BLOOMBERG	MICHAEL	RC	NB	MAYOR			
DREYFUSS	FRAN	SU	SU	LOCAL INSTRUCTIONA		75	DSE
JETER	ERNEST	CO	GC	GUIDANCE COUNSELO	811K	75	DSE

Allegation Information:

Complainant	Type	Subject
JETER ERNEST	EMPLOYEE MISCONDUCT	DREYFUSS, FRAN

DOE 0216



THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, Chancellor
OFFICE OF THE CHANCELLOR

MEMORANDUM

DATE: May 18, 2005

TO: Ms. Christine Kicinski
Acting Director
Office of Equal Opportunity

FROM: Mr. Thomas W. Hyland *TWH/DS*
Deputy Director

SUBJECT: Ms. Francine Dreyfus
Public School 811K, Region #75
OSI# 05-4283

The Office of Special Investigations (OSI) is in receipt of the attached referral from the Special Commissioner of Investigator.

This is being referred to you for review/investigation or any action you deem appropriate. Please submit documentation to this office of any action taken by you within thirty (30) days of the receipt of this memorandum.

TWH:ds

cc: Ms. Sunilda Nunez
Coordinator of Reassigned Staff
Division of Human Resources

Attachment

RECEIVED
EDUCATION
INVESTIGATIONS
MAY 12 PM 1:58

**THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT**

80 Maiden Lane, 20th floor, New York, New York 10038
Telephone (212) 510-1400
Fax (212) 510-1550

Richard J. Condon
Special Commissioner

May 11, 2005

Ms. Theresa Europe
Director
Office Of Special Investigations
49 Chambers Street, 6th Floor
New York, New York 10007

RE: Intake # 20051247
DREYFUS, *Francine*

Dear Ms. Europe:

Attached please find information received by this office in reference to the above. We are forwarding this matter to you for your review and appropriate action.

Sincerely,

Thomas Fennell (C.I.)

THOMAS FENNELL
Chief Investigator

DOE01909

E-Mail Viewer

Page 1 of 3

#76 7024459 - Mr. Ernest Jeter, In ID: 2260689, Out ID: 2258079

From: ernestjeter@aol.com

To: IQE@cityhall.nyc.gov

Date: 4/18/2005 3:52:05 PM

Subject: City of New York - Correspondence #1-1-164534100 Message to Agency Head, CHALL - CASE

Your Honor:

I am writing this e-mail in order to request your urgent assistance to a member of the Department of Education of the City of New York discriminating against me because of race and deliberately abusing her supervisory powers. The individual in question is Fran Dryfus, Local Superintendent of Instructions for District 75 Citywide Program at 400 First Avenue, New York. F. Dryfus has been investigating me and having my counseling records reviewed on a weekly basis since September of school year 2004/5. She has reviewed my records without cause and without a complaint being filed with her by either of my immediate supervisors. She has filed a false report with the Special Commissioner of Investigation for New York City Schools based on what she claimed are five errors with my attendance cards on two students even though she has yet to give the students names. She claims that the two students' mother filed a complaint with her, but she has not produce a copy of the complaint the!

mother filed with her, nor has she produced the mother's names. The SCI has produce a report in reference to the complaint filed by F. Dryfus filed with them. F. Dryfus had meeting on April 1, 2005 with me, and she concluded, even though she is wrong, that I claimed that I counseled atleast 12 students on days when school was either closed or the students were absent. Four days in which she claimed school was closed the school was open, and on the date in question, a RR is placed in the box. R= released. As of April 12, 2005, she has assigned me to the District office with out stating a specific reason other than she is doing some kind of investigation. I have not been told what the investigation is about and this is a clear violation of my rights to receive proper notice before I am disciplined. I have also filed two complaints with DOE's Office of Equal Opportunity, but I have not received any action.

===== Original Formatted Message Starts Here =====

Your City of New York - CRM Correspondence Number is 1-1-164534100
 DATE RECEIVED: 04/17/2005 16:19:40
 DATE DUE: 04/29/2005
 SOURCE: WEB

The e-mail message below was submitted to the City of New York via NYC.gov or the 311 Call Center. It is forwarded to your agency by the Mayor's Office of Operations. In accordance with the Citywide Customer Service standard, your response is due in 10 business days.

If this message is to a Commissioner / Agency Head and needs to be re-routed to another agency or cc to another agency, forward the email to outgoingagency@customerservice.nyc.gov. Do not make any changes to the subject line. Include any comments and it will be processed by The Mayor's Office of Operations.

All other web forms are to be handled by the receiving agency.

DOE01912

E-Mail Viewer

Page 2 of 3

-----Original Message-----

From: PortalAdmin@doitt.nyc.gov
Sent: 04/17/2005 16:18:40
To: sbladmp@customerservice.nyc.gov
Subject: < No Subject >

From: ernestjeter@aol.com (Ernest Jeter)
Subject: Message to the Mayor

Below is the result of your feedback form. It was submitted by
Ernest Jeter (ernestjeter@aol.com) on Sunday, April 17, 2005 at 16:18:40

This form resides at

http://www.nyc.gov/portal/index.jsp?epi_menuItemID=bd08ee7c7c1ffec87c4b36d501c789a0&epi_menuID=beb0d8fdaa9e1607a62fa24601c789a0&epi_baseMenuID=27579af732d48f86a62fa24601c789a0&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fmail%2Fhtml%2Fmayor.html

<APP>CUSTOM
<ISSUE>CASE<ISSUE>
<MSG>Your Honor:

I am writing this e-mail in order to request your urgent assistance to a member of the Department of Education of the City of New York discriminating against me because of race and deliberately abusing her supervisory powers. The individual in question is Fran Dryfus, Local Superintendent of Instructions for District 75 Citywide Program at 400 First Avenue, New York. F. Dryfus has been investigating me and having my counseling records reviewed on a weekly basis since September of school year 2004/5. She has reviewed my records without cause and without a complaint being filed with her by either of my immediate supervisors. She has filed a false report with the Special Commissioner of Investigation for New York City Schools based on what she claimed are five errors with my attendance cards on two students even though she has yet to give the students names. She claims that the two students' mother filed a complaint with her, but she has not produce a copy of the complaint the! mother filed with her, nor has she produced the mother's names. The SCI has produce a report in reference to the complaint filed by F. Dryfus filed with them. F. Dryfus had meeting on April 1, 2005 with me, and she concluded, even though she is wrong, that I claimed that I counseled atleast 12 students on days when school was either closed or the students were absent. Four days in which she claimed school was closed the school was open, and on the date in question, a RR is placed in the box. R= released. As of April 12, 2005, she has assigned me to the District office with out stating a specific reason other than she is doing some kind of investigation. I have not been told what the investigation is about and this is a clear violation of my rights to receive proper notice before I am disciplined. I have also filed two complaints with DOE's Office of Equai Opportunity, but I have not received any action.</MSG>

<PREFIX>Mr.</PREFIX>
<FIRST>Ernest</FIRST>
<LAST>Jeter</LAST>

DOE01913

E-Mail Viewer

Page 3 of 3

<ADDR1>124-21 Flatlands Avenue/1J</ADDR1>
<CITY>Brooklyn</CITY>
<STATE>NY</STATE>
<ZIP>11208</ZIP>
<COUNTRY>United States</COUNTRY>
<PHONE_B>347-5967357</PHONE_B>
<EMAIL>ernestjteter@aol.com</EMAIL>
</APP>

REMOTE_HOST: 152.163.100.6
HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; AOL 9.0; Windows NT 5.1;
SV1; Alexa Toolbar)

Confidentiality Notice: This e-mail communication and any attachments may contain confidential and privileged information for the use of the designated recipients named above. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this communication in error, please notify me immediately by replying to this message and deleting it from your computer. Thank you.

DOE01914

Valente Michael

From: Valente Michael
Sent: Wednesday, May 25, 2005 11:38 AM
To: Hyland Thomas
Cc: Nunez Sunilda
Subject: Ernest Jeter v. Francine Dreyfus, OSI #05-4283

Confidential

OEO already reviewed complainant's concerns. Please see attached letter.
Have a good day!

Michael J. Valente, Esq.
OEO Complaint Officer
Office of Equal Opportunity
NYC Department of Education
65 Court Street, Room 923
Brooklyn, NY 11201
(tel) 718-935-2135
(fax) 718-935-2531

5/25/2005

DOE01858

Valente Michael

From: Valente Michael
Sent: Thursday, April 28, 2005 11:20 AM
To: Dreyfus Francine (750000)
Cc: Henderson Rachel (75K811); McKenna Rodriguez Mary; Europe Theresa
Subject: OEO's letter to Ernest Jeter

Confidential

Please see the attached letter. If you have any questions, just contact me.
Thank you.

Michael J. Valente, Esq.
OEO Complaint Officer
Office of Equal Opportunity
NYC Department of Education
65 Court Street, Room 923
Brooklyn, NY 11201
(tel) 718-935-2135
(fax) 718-935-2531

4/28/2005

DOE01859

*Not file
Returned 5/14/05
SS*

2005-1247



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007
April 27, 2005

REFERRAL TO:

Mr. Richard J. Condon
Special Commissioner of Investigation
For the New York City School District
20th Floor
80 Maiden Lane
New York, New York 10038

ACTION REQUESTED:

The attached correspondence is being forwarded to your agency for response. The only information the Office of the Mayor has about this constituent is included in the attached letter. Respond directly to the constituent under the appropriate signature within your agency. Please call Stacy Lewis with questions at (212) 788-2771.

DUE DATE: within 10 working days of receipt

CONSTITUENT:

Casework#: 332973
Mr. Ernest Jeter
Apartment 1-J
12-421 Flatlands Avenue
Brooklyn, NY 11208

ACTION TAKEN:

Please check action taken and provide a detailed explanation (please write any other pertinent information on the back of this sheet).

☐ Constituent received a written response (attach copy)
☐ Constituent was responded to via phone. Phone number: _____ Spoke to: _____

☒ The matter is outside of our jurisdiction. I suggest referral to: *we have referred the matter to the Chancellor's Office of Special Investigations. We have previously referred 2 related complaints to OSI on some subject matter. (See attached SCI Complaint form under Case Tracking.)*

Return this form to:
JoJo LoPresti
Mayor's Office of Correspondence
23rd Floor South
One Centre Street
New York, NY 10007
(212) 788-2468



Office of Equal Opportunity

April 21, 2005

Mr. Ernest Jeter
124-21 Flatlands Avenue, Apt. 1-J
Brooklyn, NY 11208

OEO-104-05-0403-02jntrel:ot

Dear Mr. Jeter:

The Office of Equal Opportunity (OEO) is in receipt of your complaints. Our preliminary investigation, made pursuant to Chancellor's Regulation A-830, indicates that there is no credible evidence presented which would support your allegations of discrimination and retaliation. Additionally, you have not presented credible evidence that the actions of school administrators regarding the assessment of your job performance and their involvement in a Special Commissioner of Investigations ("SCI") investigation of you regarding "falsified records and not providing mandated services to students" were pretexts for illegal discrimination. The issues raised in your complaints regarding your job performance and the SCI investigation are best addressed by your union. Based on the foregoing, OEO has declined to assert further jurisdiction over this matter and has closed your case file.

If you have any questions, you may contact Michael J. Valente, Esq., Equal Opportunity Complaint Officer at (718) 935-3319.

Sincerely,

Connie A. Shulman
Acting Director

CAS:mjv

EXHIBIT 9

800.523.7887

06/23/2006, NY, NY, In the Matter of NYC Dept. of Ed. v. Ernest Jeter,

Associated Reporters Int'l., Inc.

Page 2616

1 DeMarco - Cross - Glass
 2 MS. PEPE-SOUVENIR: -- as to
 3 relevance.
 4 THE HEARING OFFICER: --
 5 well, let's -- let -- let's see if she -- if
 6 she first can establish that she knows -- that
 7 he can establish that he -- that she knows the
 8 person --
 9 THE WITNESS: Yes.
 10 THE HEARING OFFICER: --
 11 which would be a basis for asking questions,
 12 and then we'll get to the relevance of the
 13 question.
 14 MS. PEPE-SOUVENIR: Okay.
 15 BY MR. GLASS: (Cont'g.)
 16 Q. Okay. So, do you -- do you
 17 recognize that sheet?
 18 A. Yes.
 19 Q. And does that refresh your
 20 recollection of who Santa Antonio is?
 21 A. Yes.
 22 Q. Who -- who is she?
 23 A. She's -- I believe, a speech
 24 therapist, and I think her first name is

Page 2617

1 DeMarco - Cross - Glass
 2 Melissa. I'm not -- I'm not entirely sure.
 3 Q. Okay. Would she have
 4 services -- would she have a mandate to service
 5 individual students?
 6 A. Yes.
 7 Q. I notice it says on that
 8 sheet, class. Is that an appropriate use of a
 9 sign-in sheet?
 10 A. She most likely was push-in.
 11 Speech was push-in. Speech Therapists did not
 12 have a private office, only our guidance
 13 counselors did. Speech provider worked in the
 14 classroom with the students.
 15 Q. But would she have a mandate
 16 to service individual students?
 17 A. Yes.
 18 Q. Did you ever question her as
 19 to how she -- why she was filling out "class"
 20 on this?
 21 MS. PEPE-SOUVENIR:
 22 Objection, relevance.
 23 THE HEARING OFFICER: Okay.
 24 Mr. Glass?

Page 2618

1 DeMarco - Cross - Glass
 2 MR. GLASS: Well, part of the
 3 theory is that he is being scrutinized
 4 differently than other people and so this goes
 5 to you know -- the question of sign-in sheets,
 6 there's been some testimony that she reviewed
 7 that, her concerns, and we're trying to show
 8 that it wasn't always consistent, whether
 9 she --
 10 THE HEARING OFFICER: I -- I
 11 think it's relevant, at least as background
 12 evidence.
 13 MR. GLASS: And it -- this
 14 document is in evidence.
 15 THE HEARING OFFICER: Okay.
 16 BY MR. GLASS: (Cont'g.)
 17 Q. Okay. Did you ever question
 18 Ms. Santa Antonio about her filling out the
 19 sign-in sheets?
 20 A. No.
 21 Q. Do you know if anyone else
 22 ever questioned her about that?
 23 A. I wouldn't know. I was only
 24 directed to monitor Mr. Jeter's sheets.

Page 2619

1 DeMarco - Cross - Glass
 2 Q. Do you know someone named
 3 Rochelle?
 4 A. Yes.
 5 Q. Okay. Was she -- was she a
 6 mandated one-to-one provider?
 7 A. I don't know what exactly
 8 her -- whether she was listed as a
 9 one-to-one -- I believe she may have been
 10 listed on the organization under that. She was
 11 in the main office.
 12 Q. Who made the decision to
 13 assign her to the main office as opposed to as
 14 a one-to-one service --?
 15 MS. PEPE-SOUVENIR:
 16 Objection, relevancy to the charges.
 17 MR. GLASS: Well, it's
 18 particularly relevant to Ms. Copenney's charge
 19 that was charged in here about Mr. Jeter
 20 raising a concern about what Ms. Kirshbalm was
 21 doing.
 22 MS. PEPE-SOUVENIR: That was
 23 never -- as far as direct. That was not --
 24 THE HEARING OFFICER: Go

15 (Pages 2616 to 2619)

Associated Reporters Int'l., Inc.

800.523.7887

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DOE 00704

EXHIBIT 10

PAGE 1 OF 1

Henderson Rachel (75K811)

Dreyfus Francine (750000)
Henderson Rachel (75K811)

Sent: Fri 2/18/2005 10:54 AM

ct: Monday 2/28

ments:

der....I will be there on Monday 2/28 AM to review Jeter's logs, attendance, sign in/sign out sheets.
sure that Rosina has put this together for Dec. And January

rom NYCDOE Blackberry Device

Ex
CK

EXHIBIT 11



JOEL I. KLEIN, Chancellor
DISTRICT 75
DR. SUSAN ERBER, SUPERINTENDENT

MEMORANDUM

To: Dr. Susan Erber, Superintendent

From: Dr. Fran Dreyfus, Local Instructional Superintendent

RE: OSI Investigation #05-7914-Rosina DeMarco, Assistant Principal, P. 811K

Date: December 5, 2005

Ms. Marsiste Adolphe, Teacher filed an allegation of theft of service against Assistant Principal, Rosina DeMarco. Mr. Adolphe contends that on the following days Ms. DeMarco was late or absent from work and this was not documented or entered as partial absences on payroll.

The dates are as follows: 10/17/05, arrival time of 8:35 AM, 10/18/05, arrival time at 8:50 AM, 10/19/05, arrival time 8:10 AM, 10/20/05, arrival time midday, 10/21/05, arrival time 8:15 AM, 10/24/05, arrival time 8:20 AM, 10/25/05, Mr. Adolphe could not substantiate the time, 10/26/05, arrival at 8:13 AM.

On 10/20/05, Ms. DeMarco attended an assistant principals' meeting at P. 53K concerning "best practices" in instruction for students in 12:14 classrooms. I was at P. 811K on 10/20/05 and Ms. DeMarco arrived at school at approximately 1:00 PM following the meeting.

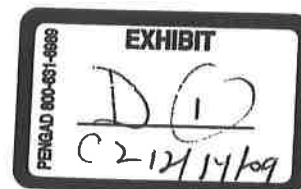
Ms. DeMarco's official work hours are from 8:20 AM-4:10 PM. According to the "Record of Absence" (attached), Ms. DeMarco's time sheets, time cards, and a copy of the EIS payroll (attached) for Ms. DeMarco, she was late on 10/12/05, arrived at 8:36 AM, 16 minutes late, 10/18/05, 8:55 AM, 30 minutes late, 10/25/05, arrived at 8:25 AM, 5 minutes late. These fractional absences were entered in EIS (see attached).

There is a memo in the packet that was written by Ms. DeMarco, dated October 12, 2005 concerning time and attendance. It must be revised since it is addressed to "all staff" and includes disciplinary action "including suspension and termination." Teachers cannot be suspended or terminated.

Also included in this packet is a letter addressed to Mr. Ernest Jeter, Guidance Counselor dated January 26, 2005. I question how Mr. Adolphe had access to a confidential letter that was placed in Mr. Jeter's file. As of April, 2005, Mr. Jeter was removed from his position as a guidance counselor pending the outcome of 3020a charges. He has been assigned since April 2005 to the District Office.

Mr. Adolphe has underlined Rochelle Kirschbaum's name, a paraprofessional who is not assigned to the classroom. I have directed Mr. Perez, Head of School, to correct this and list Ms.

DR. FRANCINE DREYFUS-LOCAL INSTRUCTIONAL SUPERINTENDENT
DISTRICT 75 • 400 FIRST AVENUE • NEW YORK • NEW YORK • 10010
212 • 805 • 1520 FAX: 212 • 805 • 1520 Email: FDREYFU@NYCDOE.NET



D-1 (11)

Kirschbaum correctly on the organization sheet. Ms. Kirschbaum has worked in the office for many years. Ms. Kirschbaum will be assigned to a classroom position by February 1, 2006.

Finally, Mr. Adolphe has attached several unclear photos. I am questioning if Mr. Adolphe was taking photos with his cell phone during instructional time or while he was officially (including during a prep period or professional activity period) on duty during school hours.

I have instructed Ms. DeMarco to maintain a time card (as well as sign in) to indicate her arrival and departure on a daily basis.

I have also directed Mr. Perez, Head of School, to instruct Ms. Mary Flynn, Payroll Secretary, to enter fractional absences on a monthly basis in BIS for all staff. I will personally follow-up on this issue.

Conclusion:

The allegation is unsubstantiated. Ms. DeMarco did not engage in theft of service.

DR. FRANCINE DREYFUS-LOCAL INSTRUCTIONAL SUPERINTENDENT
DISTRICT 75 • 400 FIRST AVENUE • NEW YORK • NEW YORK • 10010
212 • 802 • 1520 • FAX: 212 • 802 • 1682 • Email: FDREYFU@NYCBOE.NET

TOTAL 1

EXHIBIT 12

Page 5 of 7

Forwarded Message:

Subj: Fwd: Did your office investigate my complaint?
Date: 5/16/2008 2:14:17 P.M. Eastern Daylight Time
From: Ernest Jeter
To: rcondon@nycsdo.org

To: Richard Condon
Commissioner
Office of Special Commissioner
Investigation for
New York City School District

Mr. Condon:

Below you will find two emails that I have sent to Mr. Thomas Fennell, Chief Investigator, in your office. You will notice that I have requested from Mr. Fennell a status report on the various complaint filed with your office. As stated in the emails, I have not received the common courtesy of a response from Mr. Fennell.

I am sending you this email with the idea that you will assist me with the matter in reference to Mr. Fennell not responding to a member of the public, such as myself, who has made a complaint to your office about possible Medicaid fraud and theft of services, etc.

At this time I want to thank you for any attention that you may give to my very important public concerns, such as the illegal use of taxpayers funds for not providing mandated related services in which Medicaid has reimbursed the DOE for providing the mandated services.

Ernest Jeter
124-21 Flatlands Avenue 1J
Brooklyn, New York 11208
347-866-7357

Forwarded Message:

Subj: Did your office investigate complaint?
Date: 4/14/2008 4:17:36 P.M. Eastern Daylight Time
From: Ernest Jeter
To: tfennell@nycsdo.org

To: Mr. Thomas Fennell
Chief Investigator
Office of Special Commissioner
Of Investigation for the
New York City School District
80 Maiden Lane, 20th Floor
New York 10038
(212) 510-1439

Saturday, March 21, 2009 AOL: Ernestjeter

PI0012

P10013

Saturday, March 21, 2009 AOL: Ernest Jeter

Ernest Jeter

Thank you.

Finally, I want to thank you in advance for considering this extremely important matter of preventing theft of serious, falsifying documents and committing "Medicaid Fraud" by the DOE employees within the complaint was made against.

If you have any further questions pertaining to this matter, please do not hesitate to call me at 347-698-7357. I will appreciate it if you will extend the courtesy an inform me on the progress of your investigation in reference to my complaint filed in your office. In addition, I also will appreciate it if you will provide your response in writing. That is, you can provide your response by a letter through regular mail or just reply email at my email address: ernestjeter@aol.com.

However, in the mean time, I will appreciate it if you will extend the courtesy an inform me on the progress of your investigation in reference to my complaint filed in your office. In addition, I also will appreciate it if you will provide your response in writing. That is, you can provide your response by a letter through regular mail or just reply email at my email address: ernestjeter@aol.com.

There seems to be something strange going on in your office in reference to investigations of complaints against the New York City Department of Education's administrators or individuals closely associated with the administrators. But, that is to be discussed at another time.

Mr. Fennell, I have waited patiently for a response from your office in reference to the complaint that I filed with your office. I have called your office in December 2005 and left a message on your voice mail and on David Moreno's voice mail for either one of you to contact me in reference to my complaint. As of the date of the email to you, I have not received a response from you or David Moreno.

When we last spoke pursuant to a telephone call you made to me on my cell phone in perhaps September or October 2005, you stated during that cell phone conversation you had with me that your office leaves investigating the complaint I made to your office, and there was no need for me to go to the mayor's office to make a complaint.

Mr. Fennell:

Re: Did your office investigate the complaint filed by me in or on about June 2005 and in which I was interviewed by Larry D. Karditsky, Assistant Team Leader, also in June 2005 in reference to the complaint.

From: Ernest Jeter
Complaint

Page 1 of 2

Subj: Fwd: Did your office investigate complaint?
Date: 5/19/2006 1:51:57 P.M. Eastern Daylight Time
From: Ernest Jeter
To: tfennell@nycsci.org

To: Mr. Thomas Fennell
Chief Investigator of
Office Special Investigation
For New York City School District

Mr. Fennell:

This is my third or fourth attempt to contact you in an attempt to get a status report on the various complaints that I have filed with your office against various New York City Department of Education employees. As of the date of this email, May 19, 2006, I have not received a response from you.

You have not responded to my telephone call nor have you responded to my email.

In closing, thank you for your immediate attention to this very important public matter.

Ernest Jeter
124-21 Flatlands Avenue 1J
Brooklyn, New York 11208
347-596-7357

Forwarded Message:

Subj: Did your office investigate complaint?
Date: 4/14/2006 4:17:36 P.M. Eastern Daylight Time
From: Ernest Jeter
To: tfennell@nycsci.org

To: Mr. Thomas Fennell
Chief Investigator
Office of Special Commissioner
Of Investigation for the
New York City School District
80 Maiden Lane, 20th Floor
New York 10038
(212) 510-1439

From: Ernest Jeter
Complainant

Re: Did your office investigate the complaint filed by me in or on about June 2005 and in which I was interviewed by Larry D. Kendricks, Assistant Team Leader, also in June 2005 in reference to the complaint.

Mr. Fennell:

When we last spoke pursuant to a telephone call you made to me on my cell phone in perhaps September or October 2005, you stated during that cell phone conversation you had with me that your office is/was investigating the complaint I made to your office, and there was no need for me to go to the mayor's office to make a complaint.

Saturday, March 21, 2009 AOL: Ernestjeter

PL0020

Page 2 of 2

Mr. Fennell, I have waited patiently for a response from your office in reference to the complaint that I filed with your office. I have called your office in December 2005 and left a message on your voice mail and on David Moreno's voice mail for either one of you to contact me in reference to my complaint. As of the date of this email to you, I have not received a response from you or David Moreno.

There seems to be something strange going on in your office in reference to investigations of complaints against the New York City Department of Education's administrators or individuals closely associated with the administrators. But, that is to be discussed at another time.

However, in the mean time, I will appreciate it if you will extend the courtesy and inform me on the progress of your investigation in reference to my complaint filed in your office. In addition, I also will appreciate it if you will provide your response in writing. That is, you can provide your response by a letter through regular mail or just simply email at my email address: ernestjeter@aol.com.

If you have any further questions pertaining to this matter, please do not hesitate to call me at 347-895-7367.

Finally, I want to thank you in advance for considering this extremely important matter of preventing theft of services, falsifying documents and committing "Medicaid Fraud" by the DOE employees whom the complaint was made against.

Thank you,

Ernest Jeter

Saturday, March 21, 2009 AOL: Ernestjeter

PI0021